



DLA Piper US LLP  
1200 Nineteenth Street, NW, Suite 700  
Washington, DC 20036-2430  
w.dlapiper.com

Chin Kyung Yoo  
chin.yoo@dlapiper.com  
T 202.861.6318  
F 202.689.7418

FILED/ACCEPTED

APR 18 2007

Federal Communications Commission  
Office of the Secretary

April 18, 2007

**VIA HAND DELIVERY**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

**Re: Arkansas Cable Telecommunications Ass'n et al v. Entergy Arkansas, Inc., EB  
Docket No. 06-53, EB-05-MD-004; Response of Pike Electric Corp. and Red  
Simpson, Inc. to Complainants' Subpoena**

Dear Ms Dortch:

Enclosed for filing please find the original and six (6) copies of the Response of Pike Electric Corp. and Red Simpson, Inc. to the Complainants' February 23, 2007 subpoena in the above-referenced proceeding. Should you have any questions, please do not hesitate to contact the undersigned counsel.

Respectfully submitted,

**DLA Piper US LLP**

William K. Coulter  
Chin Kyung Yoo  
Counsel for Pike Electric Corp. and Red Simpson, Inc.

Enclosures

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**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

**FILED/ACCEPTED**

**APR 18 2007**

Federal Communications Commission  
Office of the Secretary

In the Matter of

ARKANSAS CABLE  
TELECOMMUNICATIONS ASSOCIATION;  
COMCAST OF ARKANSAS, INC.;  
BUFORD COMMUNICATIONS I, LP. d/b/a  
ALLIANCE COMMUNICATIONS  
NETWORK; WEHCO VIDEO, INC.;  
COXCOM, INC.; and CEBRIDGE  
ACQUISITION, LP., d/b/a SUDDENLINK  
COMMUNICATIONS,

*Complainants,*

v.

ENTERGY ARKANSAS, INC.,

*Respondent.*

EB Docket No. 06-53

EB-05-MD-004

**RESPONSES AND OBJECTIONS OF PIKE ELECTRIC CORP.  
AND RED SIMPSON, INC. TO SUBPOENA AND REQUESTS FOR DOCUMENTS**

Pike Electric Corp. ("Pike") and its subsidiary Red Simpson, Inc. ("RSI"), non-parties to the above-captioned proceeding, hereby respond to and object to the Complainants' February 23, 2007 subpoena and requests for documents as follows:

**General Responses and Objections**

1. Pike and RSI generally object to each request to the extent it seeks information which is exempt from disclosure by virtue of the attorney-client privilege, work product doctrine, or other applicable privilege.

2. Pike and RSI generally object to each request to the extent it seeks information that is not relevant to any claim or defense raised by Complainants or Entergy Arkansas, Inc. (“EAI”) nor reasonably calculated to lead to the discovery of admissible evidence.

3. Pike and RSI generally object to the requests to the extent that they are unreasonably cumulative and duplicative and to the extent that the information requested is already within the possession of the Complainants or is otherwise obtainable from some other source that is more convenient, less burdensome, or less expensive.

4. Pike and RSI generally object to each request to the extent that it seeks confidential and/or Proprietary information. Pike and RSI will produce documents or other materials which contain confidential and/or proprietary information subject to the entry of a protective order governing use of such documents and information by the Administrative Law Judge.

5. Pike and RSI generally object to each request to the extent that it seeks to impose burdens or duties upon Pike and RSI that exceed the requirements and permissible scope of discovery under the FCC’s rules and procedures governing hearings and the procedural orders entered in this proceeding, including but not limited to the Hearing Designation Order and Judge Steinberg’s April 20, 2005 Procedural Order.

6. Pike and RSI object to the definition of “Entergy”/“EAI”/“Respondent” to the extent that such definition includes subsidiaries, affiliates, and parent companies of Entergy Arkansas, Inc. whose activities are not the subject of any issue designated for hearing, on the grounds that the definition is overly broad, unduly burdensome, and is designed to seek documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

7. Pike and RSI generally object to each request to the extent that it requires Pike and RSI to provide documents not within their possession, custody, or control. Except as otherwise noted in the responses to the individual requests, Pike and RSI have not retained any paper or electronic documents for periods prior to 2000, pursuant to their standard business practices. Pike's central e-mail server currently retains e-mails for 180 days, after which they are deleted unless otherwise saved by the individual user. Pike and RSI are not in possession of the e-mail server utilized by RSI prior to Pike's July 2004 acquisition of RSI, and to the best of Pike's knowledge, Pike has never been in possession of the RSI e-mail server. Pike has conducted a reasonable inquiry in response to the subpoena and has not been able to locate any information regarding the disposition of the RSI e-mail server. Pike has contacted every current Pike employee that is likely to be in possession of documents requested under the subpoena, including any such employees that may be in possession of personal computers utilized by RSI employees prior to Pike's July 2004 acquisition of RSI, and is producing all documents that may be responsive to the requests. Pike will supplement this production with any additional documents that may be found. Other computers utilized by RSI prior to the July 2004 acquisition were handled in one of three ways: (1) they were discarded with ordinary waste; (2) they were reformatted completely so that no application or user data remained, and refurbished for use in other Pike departments; or (3) they had all user data completely deleted and were assigned to new users within Pike

8. In responding to the requests, Pike and RSI have conducted and are conducting a reasonable and diligent search for documents or other things responsive to the requests, including electronic documents, which have been maintained in the ordinary course of business. To the extent that the requests ask that Pike and RSI take any other action, Pike and RSI object to the

requests as unreasonably burdensome and oppressive. Pike and RSI will supplement these responses as additional documents are found.

9. These General Objections are incorporated into each specific response below. **All** documents provided in response to the requests are being provided subject to, and without waiver of, the foregoing General Objections.

### **Responses and Objections to Individual Requests**

**Request No. 1:** Produce all documents relating to agreements between you and Entergy, as well as any known predecessor, parent, subsidiary or division of Entergy, for any work, labor, or service performed at the request of or on behalf of Entergy, as well as any known predecessor, parent, subsidiary or division of Entergy, including, but not limited to, contracts, exhibits, schedules, attachments, diagrams, addendums, and modifications of these documents.

**Response:** Pike and RSI object to this request on the grounds that it is overly broad and unduly burdensome. Subject to and without waiving the above general and specific objections, Pike and RSI are producing responsive documents for the period from 1998 to the present. See PIKE0000000001 - PIKE0000000613.

**Request No. 2:** Produce all documents which constitute or relate to construction manuals or books, procedures, policies, standards, specifications, or field practices followed by you in relation to the work you performed for Entergy, including without limitation **all** drafts, revisions, or amendments of these documents.

**Response:** Pike and RSI object to this request on the grounds that it is overly broad and unduly burdensome. Subject to and without waiving the above general and specific objections,

Pike and RSI are producing responsive documents for the period from 1998 to the present. See PIKE0000000614 - PIKE0000002471.

**Request No. 3:** Produce all documents which constitute or relate to training materials or manuals, safety regulations or codes, internal training or safety manuals, training or safety policies or procedures utilized or implemented by you in relation to the work you performed for Entergy, including without limitation all drafts, revisions and amendments of these documents.

Response: Pike and RSI object to this request on the grounds that it is overly broad and unduly burdensome. Subject to and without waiving the above general and specific objections, see the documents produced in response to Request No. 2.

**Request No. 4:** Produce all documents which constitute or relate to correspondence, memoranda, e-mails, and other communications between you and Entergy, as well as any known predecessor, parent, subsidiary or division of Entergy, as well as any of their agents, contractors, subcontractors, employees, or any other entity relating to corrections made by you to Entergy's facilities on its poles.

Response: Pike and RSI object to this request on the grounds that it is overly broad and unduly burdensome. Pike and RSI further object to this request on the grounds that the term "correction" is ambiguous. Subject to and without waiving the above general and specific objections, Pike and RSI are producing responsive documents. See PIKE0000002472 - PIKE0000004642.

**Request No. 5:** Produce all documents which constitute or relate to correspondence, memoranda, e-mails, and other communications between you and Entergy, as well as any known predecessor, parent, subsidiary or division of Entergy, as well as any of their agents, contractors, subcontractors, employees, or any other entity relating to Complainants.

**Response:** Pike and RSI object to this request on the grounds that it is overly broad and unduly burdensome. Subject to and without waiving the above general and specific objections, Pike and RSI will produce any non-privileged, responsive documents if any such documents are found.

**Request No. 6:** Produce all documents which constitute or relate to correspondence, memoranda, e-mails, and other communications between you and Entergy, as well as any known predecessor, parent, subsidiary or division of Entergy, as well as any of their agents, contractors, subcontractors, employees, or any other entity relating to safety concerns or violations attributed to Entergy's or any cable attachers' facilities.

**Response:** Pike and RSI object to this request on the grounds that it is overly broad and unduly burdensome, Subject to and without waiving the above general and specific objections, Pike and RSI will produce any non-privileged, responsive documents if any such documents are found.

**Request No. 7:** Produce all documents which constitute or relate to correspondence, memoranda, e-mails, and other communications between you and Entergy, as well as any known predecessor, parent, subsidiary or division of Entergy, as well as any of their agents, contractors,

subcontractors, employees, or any other entity relating to Entergy's service interruptions and system outages.

Response: Pike and RSI object to this request on the grounds that it is overly broad and unduly burdensome. Subject to and without waiving the above general and specific objections, Pike and RSI will produce any nonprivileged, responsive documents if any such documents are found.

**Request No. 8:** Produce all documents which constitute field notes, minutes, diary books, or journals, whether taken by you, your personnel, representatives or agents, or other parties, from all meetings with Entergy, including, but not limited to, informal marketing or information sessions, meetings, conferences or telephone calls.

Response: Pike and RSI object to this request on the grounds that it is overly broad and unduly burdensome. Subject to and without waiving the above general and specific objections, Pike and RSI respond as follows: Pike and RSI have conducted a good faith search for documents responsive to this request but have not identified any such documents in their possession.

**Request No. 9:** Produce all documents which constitute notes, minutes, diary books, or journals, whether taken by you, your personnel, representatives or agents, or other parties, which relate to the field condition of Entergy's poles, including but not limited to pole or circuit history, systemic maintenance problems, and Entergy's pole maintenance and safety programs.

Response: Pike and RSI object to this request on the grounds that it is overly broad and unduly burdensome. Subject to and without waiving the above general and specific objections,



Pike and RSI respond as follows: Pike and RSI have conducted a good faith search for documents responsive to this request but have not identified any such documents in their possession.

**Request No. 10:** Produce any and all additional documents, not produced in response to the Complainants' other Requests, which relate to the above-captioned proceeding.

**Response:** Pike and RSI object to this request on the grounds that it is overly broad, unduly burdensome, and fails to specify the documents sought with particularity. Subject to and without waiving the above general and specific objections, Pike and RSI respond as follows: Pike and RSI have conducted a good faith search for documents responsive to this request but have not

identified any such documents in their possession, other than those documents being produced in response to requests 1-4

**PIKE ELECTRIC CORP.  
RED SIMPSON, INC.**

*James R. Fox / cx*

James R. Fox  
General Counsel  
100 Pike Way  
Post Office Box 868  
Mt. Airy, NC 27030

William K. Coulter  
Chin Kyung Yoo  
DLA Piper US LLP  
1200 Nineteenth Street, NW  
Washington, DC 20036-2430  
T: 202.861.3943  
F: 202.689.8460

*Its Attorneys*

April 18, 2007

## CERTIFICATE OF SERVICE

I, Christine L. Zepka, hereby certify that on this 18th day of April, 2007, I caused to be served a true copy of the foregoing Response via first class mail, postage prepaid, (or as otherwise indicated) upon the following:

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554  
(*via hand delivery*)

Hon. Arthur I. Steinberg  
Administrative Law Judge  
Office of the Administrative Law Judge  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554  
(*via hand delivery*)

Wm. Webster Darling  
Janan Honeysuckle  
Entergy Services, Inc.  
425 West Capitol Avenue  
27th Floor  
Little Rock, AR 72201

Shirley S. Fujimoto  
David D. Rines  
McDermott Will & Emery LLP  
600 13th Street, N.W.  
Washington, DC 20005-3096

Gordon S. Rather, Jr.\*  
Stephen R. Lancaster  
Michelle M. Kaemmerling  
Wright, Lindsey & Jennings LLI'  
200 West Capitol Avenue, Suite 2300  
Little Rock, AR 72201-3699

Alex Starr, Lisa Saks and Michael Engel  
Enforcement Bureau  
Market Dispute Resolutions Division  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554  
(*via hand delivery*)

Best Copy and Printing, Inc.  
Federal Communications Commission  
c/o 236 Massachusetts Avenue, N.E.  
Suite 110  
Washington, DC 20554  
(*via hand delivery*)

J.D. Thomas\*  
Paul A. Werner III  
Hogan & Hartson, LLP  
Columbia Square, 555 13th Street, N.W.  
Washington, DC 20004-1109  
(*via hand delivery*)

\* w/documents

Christine L. Zepka